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REMARKS/ARGUMENTS

The examiner is again respectfully requested to reconsider her rejection of claim 1 as being unpatentable over Brochu (US 2004/0187394) in view of Meckstroth (US 6412228) as applied under 35 U.S.C. 103(a).

Claim 1 now in the application calls for a gutter cover having an intermediate section and an outer side section on one side of the main section. The intermediate section is a perforated panel. 'Panel' is defined in the Webster-Merriam dictionary as a 'flat, usually rectangular, construction member'. Applicant's panel is therefore a flat panel. The panel is separate from the outer side section. The outer side section is defined as a channel having a bottom wall aligned with the panel, a top wall and an end wall joining the top wall to the bottom wall.

Brochu shows a gutter cover having an intermediate section 72 and a separate outer side section. The intermediate section 72 is flat and perforated. The outer side section has an inner vertical wall 90 leading up from the intermediate section 72 and an outer vertical wall 92 (shown as 29 in the drawings-Fig.5), not as long as wall 90, radiused from the top end of the inner vertical wall 90 and parallel to it. A horizontal portion 94 extends outwardly from the bottom end of the outer wall 92 and has a reverse edge.

Meckstroth shows a gutter cover with a main section comprising comprising elements 45(should be element 52), 68 and 71. This main section is held by the examiner to be equivalent to the intermediate section in both Brochu and in applicant's construction. It is respectfully submitted however that this 'main section' is not the same as the intermediate section in Brochu and in applicant's construction. In Brochu, the intermediate section is flat. In applicant's construction the intermediate section is a panel which is a flat member. In Meckstroth, the main section is convoluted having a

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first, flat, intermediate portion 52 and a second, s-shaped, intermediate portion 62. The main section in Meckstroth, because of the s-shaped section, is convoluted and not flat and thus is not comparable to the intermediate sections in Brochu and applicant's construction.

Meckstroth needs the s-shaped portion to provide an outlet for the water running off the cover which is not otherwise perforated and to shed leaves over and past the outlet. Thus there is no way the entire Meckstroth main section can be flat. It may be argued that the channel in Meckstroth is aligned with the main section but it is certainly not aligned with the first, flat, intermediate portion of this main section.

All Meckstroth teaches is having a main section with a flat portion, followed by a s-shaped portion, followed by a channel which channel is located below the plane of the flat portion. The channel, let alone its bottom leg, is not aligned with flat portion and cannot be if the purpose of the cover is to be achieved.

Applicant on the other hand locates the channel to have its bottom leg aligned with the flat panel, thus placing the end wall above the flat panel to provide a finger grip to be able to pull the cover on the lip of the gutter.

Meckstroth teaches locating the channel below the flat portion of the cover. To apply the Meckstroth channel to the Brochu panel would require locating the channel below the plane of the panel thus having the top wall of the channel aligned with the panel and failing to provide a finger grip for the cover.

It is further noted that Meckstroth clearly states that the bottom wall 76 of the channel is an integral part of the channel portion 68 which is part of the S-shaped second intermediate section (see col. 3, lines 55 -57 of the patent). The intermediate section of the cover in Meckstroth comprises the flat section 52 and the S-shaped section 68. Thus the channel is part of the intermediate

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section in Meckstroth and not a separate outer side section. Meckstroth has a separate outer side section composed of the outer flange portion 58 and member 78. If the channel is part of the intermediate section it cannot be seen how it is aligned with itself.

To summarize:

Claim 1 calls for a gutter with a panel (or flat) intermediate section and an outer section attached to one side of the intermediate section. The outer section comprises a channel having a bottom wall aligned with the panel section. The channel has a top wall and an end wall joining the top and bottom walls, the end wall obviously being above the flat panel section so it can be gripped.

Meckstroth does not show a flat intermediate panel section but rather a convoluted intermediate section with a flat portion followed by an s-shaped portion followed by a channel portion. Meckstroth does not show the channel portion above the flat portion or even level with it and thus does not have a bottom leg of the channel aligned with the flat portion.

Meckstroth teaches a channel portion located below a flat portion of a cover and to use the channel portion of Meckstroth in Brochu would require locating the channel portion below the plane of the intermediate section on Brochu. Such a construction is not equivalent to applicant's construction.

Claim 1 further calls for the channel to be separate from the intermediate portion of the cover. In Meckstroth the channel is part of the intermediate portion.

In view of the unobvious differences in the claim from what is shown by Brochu, when combined with Meckstroth, it is respectfully requested that the rejection of claim 1 under 35 U.S.C. 103(a) be withdrawn.

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